

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re:

Rodolfo Valentin Quiroga

Debtor.

**CASE #: 19-10198-cgm  
CHAPTER 13**

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**REQUEST FOR ENTRY OF ORDER PURSUANT TO BANKRUPTCY CODE  
SECTION 109(g)**

I, Aleksandra K. Fugate, Esq., an attorney duly licensed to practice law in the State of New York and admitted in the Southern District of New York, affirm the following to be true, under penalty of perjury:

1. I am an attorney of Woods Oviatt Gilman, LLP, attorneys for Wells Fargo Bank, NA ("Secured Creditor"). I am fully familiar with the facts of this case and submit this affirmation in support of the Secured Creditor's request for an Order declaring the automatic stay has terminated as it pertains to the premises located at 40 W 55<sup>th</sup> St, Unit PHS, New York, NY 10019-5371 (the "Subject Property") pursuant to Section 109(g) of the United States Bankruptcy Code.

**BACKGROUND**

2. Secured Creditor is the holder of a Note executed by Rodolfo Valentin Quiroga ("Debtor") in the original amount of \$1,158,750.00 ("Note"), secured by a mortgage, which was recorded in the Office of the City Register of the City of New York on May 14, 2008 at CRFN 2008000194226 ("Mortgage") covering the Subject Property. Wells Fargo Bank, N.A., successor by merger to Wells Fargo Bank Southwest, N.A. F/K/A Wachovia Mortgage F.S.B. F/K/A World Savings Bank, FSB. A copy of the Note, Recorded Mortgage, and Merger Documents are annexed hereto as Exhibit "A".

3. The Debtor filed a Chapter 13 Bankruptcy Petition number 18-12075 ("prior filing") on July 9, 2018, which proceedings were dismissed on September 12, 2018. A copy of the Pacer printout evidencing said bankruptcy proceedings is annexed her as Exhibit "B".

4. On September 12, 2018, this Court entered an Order dismissing said prior filing with prejudice. The Debtor was ordered ineligible to file for bankruptcy protection under any chapter for one hundred eighty (180) days pursuant to section 109(g). A copy of the Dismissal is annexed her as Exhibit "C".

5. On January 23, 2019, the Debtor filed the bankruptcy case at hand. As set forth above, the instant case represents a bankruptcy filing by the Debtor in a period of less than 180 days from the entry of the dismissal order in the prior filing. Accordingly, the stay shall not go into effect and, the Secured Creditor, hereby request that the Court enter an order confirming the same.

6. A copy of the proposed Order is annexed hereto as Exhibit "D".

7. No prior application has been made for the relief requested herein.

**WHEREFORE**, the Secured Creditor respectfully requests that this Court enter an Order confirming the automatic stay shall not take effect pursuant to 11 USC §109(g) to permit Secured Creditor to foreclose its Mortgage on the Subject Property and further relief as the Court deems just and proper.

DATED: February 14, 2019  
Rochester, New York

/s/ Aleksandra K. Fugate, Esq.  
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